FOR MYSORE STATE

AGRICULTURE (FOOD PRODUCTION) (195 6) Department.

Ms. SERIES.

G.O. No.337

Dated 14th August 1956.

[Despatch Abstract.]

IRRIGATION - Tank Improvement Scheme - Recovery of cost of works under Rule 6 of the Madras Irrigation Tanks (Improvement) Rules, 195(Certain difficulties - Removal of - Instructions issued.

GOVERNMENT OF MADRAS
Agriculture (Food Production) Department.

Abstract.

IRRIGATION - Tank Improvement Scheme - Recovery of cost of works under Rule 6 of the Madras Irrigation Tanks (Improvement) Rules, 1950 - Certain difficulties - Removal of - Instructions issued.

G.O.Ms.No.337. Dated the 14th August 1956.

R E A D:

1. To the Collectors, Memorandum No.6654/54-1 F.P.IIB. dated 30.3.1954.
2. From the Collector of North Arcot letter Rc.E3A-9554/54 dated 19.5.'54.
3. From the Collector of South Kanara D.Dis.9383/54 Dt.22.6.'54.
4. To the Board of Revenue (L.R.) Memorandum No.1014/56-1 F.P. IIB dated 16.2.1956.
5. From the Board of Revenue (L.R.) B.P.Mis.496 dated 16.4.'56.

O R D E R

In response to an enquiry made by the Government of India on the working of the various Acts relating to Irrigation in this State reports were obtained from the Collectors of Districts in so far as the Madras Irrigation Tanks (Improvement) Act, 1949 was concerned and a reply was sent to the Centre. In that connection, the Collectors of North Arcot and South Kanara expressed the following main difficulties in the actual implementation of the provisions of the Madras Act XIX of 1949 in the recovery of the cost of works under the Act from the beneficiaries and the apportionment of the amount to be recovered as among the beneficiaries:-

i) that the beneficiaries under a tank improved by the Government did not reclaim their land in time and were not willing to pay the cost of the works before deriving any material gain;

ii) that they were also not willing to the transfer of the 'dry' lands to 'wet' on the plea that they must be convinced of assured supply to their lands from the source before any such transfer was effected and higher rate of assessment was levied; and

iii) that the benefits achieved by the execution of works were not commensurate with the amount spent, that the additional extent brought under cultivation after the repairs to the tank was not appreciable, which made recovery of the cost of works difficult and the owners of lands in the gap area bridged by the execution of the work contended that they were entitled for the normal supply to their lands.

2. The Government have examined the above points raised by the Collectors of North Arcot and South Kanara and the suggestions made by the Collector of North Arcot in that context, in consultation with the Board of Revenue (Land Revenue) and issue the following instructions, accepting the views of the Board of Revenue:-

POINT (i) IN PARA 1 SUPRA:

Rule 6 of the Madras Tanks (Improvement) Rules, 1950, gives discretion to the Collector or the Revenue Divisional Officer to proceed to recover the cost of repairs and improvements to the irrigation sources, if the provisions under the above rule are satisfied and the Revenue Divisional Officers have already been authorised to decide the principles on which the amount should be apportioned among the owners benefited by the work. Under the same rule, recovery can be made when the increased capacity of the tank makes it possible to raise wet crops on dry lands or second

crop on single crop wet lands and if the authority is satisfied about the possibility of a certain land being benefited, the recovery can be made. In this view, the words "lands benefited by the Works" occurring in rule 6(1) of the Rules framed under the Madras Act XIX of 1949 should be taken to mean only as the lands that will receive supply of water newly as a result of the improvements as distinct from the existing ayacut and that it should not be interpreted as a new proposition that recovery should be made only on lands after they are actually benefited by raising wet crops in dry lands or second crop on second crop wet lands, as suggested by the Collectors. Where out of the entire area to be benefited, only a small portion of it is brought under irrigation, the quantum or the proportion in which the cost of the work to be recovered cannot be decided until all the lands are actually brought under irrigation. Under such circumstances, once the capacity of the tank has demonstrably increased, the Collector or the Revenue Divisional Officer can fix the additional ayacut that will be benefited or the area where second crop can be raised on the existing ayacut, with reference to levels and situation etc., and proceed to recover the cost from the lands so determined. The attention of the Collector of North Arcot is also, in this connection, invited to the instructions already issued in Memorandum No.37430/52-4 F.P.II, dated 15.5.1953 in this regard and he is requested to take action accordingly. The suggestion of the Collector to postpone recovery for such reasonable period as to allow the ayacut to develop is, therefore, not accepted by the Government.

POINT (ii) IN PARA 1 SUPRA:

The transfer of the lands from dry to wet may be done in due course, as and when the owners of the lands benefited express their willingness and water-rate at a standard rate or any higher rate to be fixed with the approval of the Government or Thirvai Jasthi or Fasli Jasthi may be continued be levied for the present on any land (dry or wet) that uses the water from the source improved by the Government for irrigation.

POINT (iii) IN PARA 2 ABOVE:

As regards the question of recovery of the entire cost of work from the ayacutdars including those of the gap area, the Government observe again that the Collector and the Revenue Divisional Officer have full discretion under the Madras Irrigation Tanks (Improvement) Rules, 1950, to recover the full or moiety of the cost of the work from the beneficiaries or even waive the recovery consistent with the merit of each work. The Collectors are, therefore, requested to use their discretion properly and take necessary action in this regard.

(BY ORDER OF THE GOVERNOR OF MADRAS.)

M.V. SUBRAMANIAN,
Secretary to Government.(Ex-Officio)

To
The Collector of North Arcot at VELLORE.
The Collector of South Kanara, at MANGALORE.
Copy to other Collectors except Madras and the Nilgiris.
Copy to Revenue, Public Works, and Finance Departments.
Copy to the Superintending Engineer (Food Production), Madras.
Copy to the Chief Engineer (Irrigation), Madras.
Copy to F.P.IIA.
Copy to the Kerala State. } (With enclosure)
Copy to the Mysore State. }
Spare copies 5.

Forwarded/By Order/

G. Sundaram 16/8/56
Superintendent.

B/16
NL 1648/56

Extracts from the Current File bearing C.No.G654/54 II B.

- - -

Copy of letter No.F.17-2/53-IP-ES dated 29th January 1954 Directorate of Economics & Statistics, Ministry of Food and Agriculture, Govt. of India.

Sir,

x x x x x
x x x x x

2. I am now to request that you may kindly let this Directorate have a comprehensive note on the working of the (a) Madras Irrigation Works (Repairs, Improvement & Construction) Act, 1943 (b) Madras Irrigation Tanks (Improvement) Act, 1949, the Malabar Irrigation Works Act, 1947, during and after 1951 together with a brief outline of its early working prior to 1951 (if relevant). The note should indicate the difficulties experienced in implementing the Act and how these difficulties have been or are being over-come. A brief discussion as also relevant statistical data (for each of the past 3 years) in respect of the following points may also be covered in the note:-

x x x x x
x x x x x

(f) Whether the State Government consider that there are some lacunae in the Act; if so, what proposal at present under consideration to remedy such defects.

Copy of the letter from the Collector of North Arcot, Vellore Re dated 19-5-54.

G A 9554/54

Sir,

x x x x x
x x x x x

2(f) No proposals appear to be under consideration to remedy any defects.

3. Practical difficulties in the working of the Scheme (Madras ~~Division~~ Tanks Improvement Act 1949) Under Section 3(3) of the Act, Collectors have been empowered to the cost of execution of works or such portion of the cost as the Government may specify, from the owners of the lands and other properties benefited by the work in such proportion and in such manner, as may be prescribed. In para 6 of the Madras Tank Improvement Rules 1950 framed in pursuance of the Act, it is laid down that recovery of cost from the owners of the lands and other properties benefited will be effected only in cases, where as a result of anything done under section 3(1) of the Act, the capacity of the tank has demonstrably increased beyond the extent necessary to meet the requirments of the existing registered ayacut so as to make it possible to supply water for a second crop on single crop wet lands or for the irrigation

Irrigation

P.T.O.

of lands now classified as dry or garden. In cases of new works which have been constructed or restored, the above rule may be applied without difficulty, for, the entire area commanded by such works will be the additional area. ~~Apportionment of cost of such works will be the additional area. Apportionment of cost of such works will be the additional area.~~ Apportionment of cost of such works can also be done without difficulty for, it will directly depend upon the extent under holding and benefited by the new works. The following practical difficulties arise when the rule of fixation of ayacut and recovery of cost of new works are enforced. The proposed ayacutdars do not reclaim the land in time, are not willing to pay the cost before deriving any material gain and are not willing to transfer the "dry" lands, proposed ayacut to "wet". They say that they must be convinced of assured supply to their lands from the source before they can give the consent for transfer of their dry land to wet and accept to pay the wet assessment. Their contention appears to be reasonable. Without their consent, it will not be possible to transfer the "dry" lands to "wet" and on them the "wet" assessment. Further, as the ryots are not willing to pay the cost, before they actually derive any material benefit, it will not be fair also to recover the cost in advance or as soon as a source is brought to beneficial use, without any material benefit having been derived by them. The following procedure is therefore suggested in such cases. Fixation of ayacut and recovery of cost under such sources in pursuance of the Act may be kept in abeyance for a reasonable period" of normal years, discretion being given to the Collectors of the districts to fix that period. Ayacut may be fixed and cost recovered from the beneficiaries after watching the actual irrigation under such ~~sources~~ sources during the period fixed. Mean while, water rate may be charged for the water taken for irrigation from the sources when they receive supply. In view of the amount spent on the construction or restoration of such works by the Government, a special water rate not exceeding the difference between the maximum wet assessment and the minimum dry assessment of the village may be fixed and levied.

(4) In the case of improvements ~~or~~ repairs effected to old tanks also similar difficulties arise. Most of the works were in disrepairs or silted up before they were repaired. None of these sources received so far the expected supply to cover even the"gap" area or the additional anticiapted area to be brought under cultivation under it. The improvements effected to them have, therefore, restored them to the original capacity or a little more. Of these a few come under rules 5 and 6 of the Madras Irrigation Tank (Improvement) Rules 1950, in which additional ayacut will have to be fixed and the cost will have to be recovered. As the ayacutdars of the "gap" area are entitled to take water for irrigation, the entire cost will have to be borned by the additional ayacutdars only. Similar difficulties as in the case of new works arise in these cases of old works also. It will not be fair to recover the entire cost from the additional ayacutdars only. So it is suggested that in such cases, a portion of the cost may be fixed for recovery and the procedure in respect of the new works may be adopted in the case of these old works also.

Sd.....
for Collector.

P.T.O.

Copy of the letter dated 22-7-1954 from the Collector of South Kanara D.Dis. 9383/54 Dated 22.7.54.

Sir,

x x x x x

(f) Whether the State Government consider that there still are some lacuna in the Act if so what proposals are at present under the consideration to some of such defects.	It is not known whether there are proposals in this regard.

The benefits achieved by the implementation of the scheme is not commensurate with the amount spent as the additional extent brought under cultivation after the repairs to the tank is not appreciable. In most of the cases the ryots whose lands are benefited by the works are not willing to pay the cost of improvements. They plead that the tank water was being used by them even before the execution of repairs and that they have not derived any additional material benefit after repairs on account of such an attitude on the part of the ryots much difficulty is being felt in recovering the cost of improvements from the beneficiares.

Yours faithfully,
Sd. xxxx
for Collector.

/ True extract /

URGENT

GOVERNMENT OF MADRAS.

AGRICULTURE (FOOD PRODUCTION) DEPARTMENT.

Memorandum 1014/56-1 F.P. II B dated 16.2.56.

- - -

Sub: IRRIGATION - Tank Improvement Scheme-Recovery of cost of works under Rule 6 of the Madras Irrigation Tanks (Improvement) Rules, 1950 - Remarks Called for.

Read:1. From the Collector of North Arcot, Lr. Rc.E3A.9554/54 dated 19.5.54.
2. From the Collector of South Kanara Lr.D.Dis.9383/54 dated 22-7-54.

- - -

Extracts from the letters cited received from the Collectors of North Arcot and South Kanara are forwarded to the Board of Revenue for remarks. The Board is requested to examine in detail and submit its report on or before 15.3.56 without fail.

P.Sivasankaran Pillai,
Deputy Secretary to Government (Ex.Officio)

To
The Board of Revenue (Land Revenue) with encl.

/ True Copy /

P.T.O.

Revenue Department

Subject.

IRRIGATION - Tank Improvement Schemes—Recovery of cost of works under Rule G of the Madras Irrigation Tanks (Improvement) Rules 1950 - Remarks - Submitted.

Station: Madras B.P.Mis. 496 Dated 16-4-1956

From

Sri V.N.Kudva I.C.S. Commissioner of Land Revenue, Commercial Taxes and Prohibition.

Sri P.Sivasankaran Pillai I.A.S. Secretary.

Read: Govt. memo No.1014/56-1 P.P.II B. Agri. F.P.Dt.16.2.56.

Resolution:-

The Board has examined the difficulties pointed out by the Collectors of South Kanara and North Arcot in enforcing the Rule G of the Madras Irrigation Tanks (Improvement) Rules 1950 and it offers the following remarks:-

(i) Rule G of the Madras Tank Improvement Rules 1950 lays down that recovery of cost from owners of the land and other properties benefited will be effected only in cases where the capacity of the tank has demonstrably increased beyond the extent necessary to meet the requirements of the existing registered ayacut so as to make it possible to supply water for a second crop on single crop wet lands or for the irrigation of lands now classified as dry or garden. The Collector or Revenue Divisional Officer may proceed to recover the cost of repairs and improvements if the above provisions of the rule are satisfied. The Revenue Divisional Officers have been authorised to decide the principles on which the amount should be apportioned among the owners benefited by the work. The main operation portion of Rule G states that recovery can be made when the increased capacity of the tank makes it possible to raise Wet crops in dry lands or second crop ~~in second~~ crop wet lands. If the authority is satisfied about the possibility of a certain land being benefited, the recovery can be made. The word "lands benefited by the works" occuring in rule G(1) should be taken as indicating only the lands that will receive supply of water newly as a result of the improvements as different from the existing ayacut. It should not be interpreted as any new proposition that recovery should be made only on lands after they are actually benefited by raising wet crops in dry lands or second crop on ~~second~~ crop wet lands.

But such a job will not be workable also. In some cases out of the entire area to be benefited, only a small portion of it may be brought under irrigation and the remaining extent may not come under irrigation. In such cases, the quantum or the proportion in which the cost can be recommended cannot be decided until all the lands are actually brought under irrigation. The Board, therefore,

P.T.O

considers that once the capacity of the tank has demonstrably ~~demonstrately~~ increased the Collector or the Revenue Divisional Officer can fix the additional ayacut that will be benefited or the area where second crop can be raised on the existing ayacut with reference to levels and situation etc. and proceeds to recovery the cost from the lands so determined. The Government have agreed with t is view in their memo No.37430 /52 F.P.II.B.(F&A) and issued instructions to Collectors to recover the cost of works in permissible cases as soon as the works were brought to beneficial use.

(ii) Regarding the question of transferring the lands from dry to wet, the Board considers that it may be done in due course as and when the owners express their willingness. Water rate at a standard rate or any higher rate to be fixed with the approval of the Government or F.J. may be continued to be levied for the present on any land (dry or wet) that now uses water for irrigation.

(iii) As regards the recovery of the entire cost of work from the ayacutdars of the gap area, the Board submits that the Collector and the Revenue Divisional Officer have full discretion under the rules to recover the cost in full or only a portion or waive the recovery.

Sd.....
For Secretary.

To

The Secretary to Government, Agriculture (Food Production) Department, Madras.5.
with Govt. memo. No.37430/52 Dt.15.5.53 in original.
(to be sent by Special Messenger)

Copy to H.3.
Copy stock file.

/ TRUE COPY /

SUPERINTENDENT. 10/9/53

G.S.4.9.

Extracts from the note file bearing C.No.6654/54 II B.

NOTE FILE.

As for point (f), the Collector of North Arcot has expressed difficulties in the apportionment and recovery of cost of works from the ryots under sec. 3(3) of the Act. Extracts of this report may be taken for separate consideration and action with reference to the original papers on the subject. This is not, however, a difficulty in the implementation of the Act itself. A perusal is also solicited of the report of the Collector of South Kanara at 'A' on p.89 c.f. The additional extent referred to in Rule 6 of the T.I. Rules 1950 is that in excess of the Registered ayacut. In such cases, there is a legal force to collect the contribution. Now that the betterment Act has come into force, all the cases referred to by the Collector of North Arcot and South Kanara will come within the purview of Act. However, an extract of the above letter from the Collector of S.K. will also be taken to separate action.

x x xx xx

Agri.(F.P.)U.O.No. 6654/54-31 F.P. II B d/ 17.11.55.

Id.	Id.	Id.	Id.
G.J.C.	G.S.R.	S.N.	P.S.
16.11.55.	16.11.55.	A.A.S. 16-11-55	17-11-55. D.S.

Rev. Dept.

With reference to 'A' on p.ante, it is submitted that under section 3 of the Madras Irrigation (Levy of Betterment Contribution) Act, the Government will be entitled to buy betterment contribution in respect of any land which in their opinion benefited by the construction, expansion or alteration of any Irrigation or drainage work, the cost of which exceeds Rs.25,000/- Also under explanation II to Section 3 of the Act, a land will not be deemed to be benefited merely by reason of the maintenance of an existing Irrigation work wholly or partly at the expense of the

P.T.O.

Government.

With these remarks the file may be returned to Agri.(F.P.)

Rev.U.O. 104251 II/56-1
10-12-55.

A.S. III/Agri.(F.P.)

Agri.(F.P.)

A.S.

Please see the notes of Revenue at p.6 ante. Their notes at X therein may be taken into consideration while taking further separate action regarding the difficulties brought to the notice of the Govt. in the implementation of the Act by the Collectors of N. Arcot and S.Kanara referred to in para 1 on p.1 ante.

Yes. by taking an extract even now.
S.M.
20.12.55.

2. The draft letter below which has been seen by Rev. may now issue.

S.M.
20.12.55.
A.A.S.

(True Extract)

SUPERINTENDENT.

c-Rse
7.9.56.

A.S.

Please see the extracts at pp.1-2 c.f., taken from the reports of the Collectors of North Arcot and South Kanara and the orders at p.2 ante.

2. With reference to the enquiry of the Government of India made in January, 1954 on the working of the Irrigation Acts in this State, this Government asked the Collectors to report, among other things, the cases where the provisions of the Madras Irrigation Tanks (Improvement) Act, 1949 have been invoked. While submitting their reports, the Collectors of North Arcot and South Kanara alone have expressed certain difficulties in the apportionment and recovery of cost of Tank Improvement works from the ryots under Sec.3(3) of the Act. The difficulties reported by the Collectors are as follows:-

i) that the proposed ayacutdards of the new works do not reclaim the lands under the tank ayacut in time;

ii) that they are not willing to pay the cost of the works before deriving any material gain;

iii) that they are also not willing to transfer the 'dry' lands proposed to 'wet' on the plea that they must be convinced of assured supply to their lands from the source before they can give their consent for transferring their dry lands to wet and accept to pay wet assessment leviable on them; and

iv) that the benefits achieved by the execution of works are not commensurate with the amount, as the additional extent brought under cultivation after the repairs to the tank is not appreciable.

P.T.O.

3. The Collector of North Arcot considers that the contention of the ryots referred to above as reasonable. He has also pointed out that without their consent, it will not be possible to transfer the 'dry' land to 'wet' and impose on them the wet assessment. In as much as the ryots are not willing to pay the cost of the works before they actually derive any material benefit (from the tanks that have been repaired or improved), the Collector is of the view that it is unfair to recover the cost of the works in advance or as soon as the sources are brought to beneficial use, without any material benefit having been derived by them.

4. To overcome the above difficulties, the Collector of North Arcot has also suggested the following measures:-

i) that fixation of ayacut and recovery of cost under such sources in pursuance of the Madras Irrigation Tanks (Improvement) Act, 1949 may be kept in abeyance for a reasonable period of normal years, discretion being given to the Collectors to fix that period;

ii) that ayacut may be fixed and cost of the works recovered from beneficiaries after watching actual irrigation under such sources during the period fixed; and

iii) that water-rate may be charged for water taken for irrigation from the sources when they receive supply and that a special water rate not exceeding the difference between the maximum wet assessment and the minimum dry assessment of the village may be fixed and levied.

5. In respect of improvements or repairs to old tanks also, the Collector of North Arcot has reported that similar difficulties arise, as most of the works

were in disrepair or silted up before they were repaired, that none of them received so far the expected supply to cover even the 'gap' area and that improvements effected to them have, therefore, restored them to their original capacity or a little more. The Collector has pointed out that of these, a few come under rules 5 and 6 of the Madras Irrigation Tanks (Improvement Rules, 1950, in which additional ayacut will have to be fixed and the cost recovered. As the ayacutdars of the 'gap' area are entitled to take water for irrigation, the Collector considers that the entire cost will have to be borne by the additional ayacutdars only. He however, considers that it will not be fair to recover the entire cost from the additional ayacutdars only and hence, suggests that in such cases, a portion of the cost of the works may be fixed for recovery and procedure suggested by him for the new works above may be adopted in the case of old works also.

6. The original papers relating to the Madras Irrigation Tanks(Improvement) Act, 1949 and the Madras Irrigation Tanks (Improvement) Rules, 1950 are put up at A and B respectively. The Collector of North Arcot has referred to two sets of works (i) New works i.e., formation of tanks and (ii) repairs to tanks. The pre-requisite condition to apply the provisions of the Act and the rules is the existence of a tank and as such the Collector may be informed that the Act and the rules do not apply to cases of new constructions of tanks. As for repairs to the tank, under section 3(3) of the Act, the cost of carrying out any work or such portion thereof under sub section (1) of section is recoverable from the owners of the lands and other properties benefited, the District Collector being the deciding authority. Under Section 5 of the Rules, a notice specifying the nature of the improvement.

P.T.O.

to be effected to a particular irrigation sources under section 3 and the probable cost thereof according to the technical plan and estimate for the work is published or caused to be published by the Collector of the District. Rule 6 of the Madras Irrigation Tanks (Improvement) Rules, 1950, prescribed the mode of recovery in such cases and also specifies in what cases, they are applicable. Recovery of cost is ordered only in cases where the execution of the work will ultimately bring under irrigation extra extent over and above the registered ayacut and the question of such a recovery does not arise in cases where the execution of the work will bridge only the gap between the registered ayacut and the average actual extent under cultivation under the source. The question of recovery of the whole or any portion of the cost from the ayacutdars appears to have no relation whatsoever to the question whether the work was remmerative or not. In most of the Tank Improvement Works, the object of the Government was to restore the lost capacity so that the tanks might be in a position to store sufficient water for the needs of the registered ayacut under them. If that was all that was achieved by a particular work, there could be no recovery of the cost from any ayacutdar, Where however, the capacity of tank had, as a result of anything done under section 3(1) of the Act, demonstrably increased beyond the extent necessary to meet the requirements of the existing registered ayacut so as to make it possible to supply water for a second crop in the case of single crop wet lands or for the irrigation of lands now classified as dry, there would be justification for recovering a portion of the cost from the ayacutdars so benefited and recovery of cost resorted to only in such cases. The general discretion has been given

P.T.O.

to the Collectors under the rule 6 to decide:-

i) whether in a particular case recovery should be effected under the rule from the owners of the lands and other properties benefited by the work;

ii) if so, what portion of the cost should be recovered from the ayacutdars; and

iii) the principles on which the amount to be recovered should be apportioned among the owners of the lands benefited by the work.

It has been also laid down that the amount to be recovered from any person should not in any case exceed 50% of the estimated increase in the value of the land and should not also exceed the cost of the works done under Sec.3(1) of the Act. Recovery from the ryots towards the cost of Tank Improvement works has to b be made only in the case of 'improvements' and not 'repairs'. A work has to be classed as 'improvement' if its execution would result in an increase in the acreage of cultivation or would permit the raising of a second crop in single crop wet lands. This clearly shows that the entire cost of the work need not necessarily be recovered.

7. According to the instructions in B.P.Rt.No. 247 dated 6.2.52, the Collectors have to examine on receipt of the copies of the sanctioned estimates from the Executive Engineers concerned, whether the work would come within the scope of the Madras Irrigation Tanks (Improvement) Act, 1949 and if so, they have to take necessary action, if any, with reference to the rules 5 to 7 of the Madras Irrigation Tanks (Improvement) Rules, 1950. As soon as orders were passed on the question of recovery of the cost in any case under rule 6, the Collectors have to send a copy of the orders to the

P.T.O.

Accountant General, Madras for information. The questions relating to the quantum of recovery and the apportionment of the sum have been left to the Collectors under the Rules. The Collector of North Arcot considers that the question of recovery in respect of the Tank Improvement Works can be taken up only if experience of a few years which he calls as reasonable period) indicates that a permanent increase in the registered ayacut of the tanks can be effected besides the existing ayacut. In the circumstances, the Collector considers that the question of recovery may be taken after a 'reasonabl period' (say 3 or 4 years later after completion of the works); whereas under the rules, recovery will be resorted to from the year in which the work is completed. A similar question was raised by the Collector of Visakapatnam in 1952 and instructions were issued on this point in Government Memo.No.37430/52-4 F.F.II B dated 15.5.53. It was then considered that the question of recovery could not be postponed indefinitely, as by that time the benefited ryots would become reluctant to pay towards the cost of the work. It was also then apprehended by the Government that the tanks might go out of order due to unexpected causes like cyclone or floods (as have happened this year 1955-56) and the Government would be deprived of resorting to the recovery of cost of the work carried out under the Tank Improvement Scheme. In the circumstances the Government considered that as soon as the work is carred out and is brought to beneficial use, the recovery should be resorted to in cases where the works come within the scope of Rule 6. It appears that the intention of the Government at the time of framing rules under the Act was not to wait for the development of the ayacut of the tanks repaired or improved to enable a stable registered ayacut being fixed for the source for purposes

. . .

P.T.O.

of recovery of cost under rule 6. In B.P.Rt.No.152 dated 23.4.53, instructions were issued to the Superintending Engineer (Food Production) and the Chief Engineer (Irrigation) to instruct the Executive Engineers under their control to furnish the Collectors with field war particulars of lands to be benefited by each work and the Collectors were asked to get the necessary particulars on receipt of sanctioned estimates from the Superintending Engineer (Food Production) and the Chief Engineer (Irrigation), as the case might be, by addressing the local engineering officers. The above instructions were issued with a view to help the Collectors to effect recovery of the cost of Tank Improvement Works from the beneficiaries under rule 6 and publication of the notice under rule 5. In the circumstances, it is not desirable to accept the suggestion of the Collector of North Arcot to postpone recovery of cost of the work under the rule till a reasonable period, discretion being given to him as well as to other Collectors to fix that period. The attention of the Collector may be invited to the instructions already issued in Govt. Memo. No.37430/52-4 F.P.II dated 15.5.53 which are very clear and to take action accordingly. As regards apportionement of the cost of the works referred to at 'P' on p.2 c.f., the recovery can obviously be effected only from the ayacutdars whose extents are to be newly included, the Collector may use his discretion and take action under rule 6, in accordance with the nature and merit of each work. It may be mentioned that no such difficulties as reported by the Collectors of North Arcot and South Kanara have been reported by the other Collectors. It may also be mentioned that the Govt. have already wound up the F.P. Sub.Division at South Kanara fining that the outlay

P.T.O.

involved in repairs to spring ponds was not commensurate with

8. As regards fixation of ayacut referred to by the Collector of North Arcot, it may be noted that they are fixed by the Food production Engineering Staff or P.W.D. based on the results of investigation made by them before preparation and sanction of estimates for the works taken up under their programme. The ultimate ayacut of a tank is fixed with reference to its sorage capacity, catchment area, supply, irrigable area etc. If the sources even after repairs carried out are not capable of irrigating the ultimate ayacut fixed for them, it is open to the Collector to take action under the discretionary powers referred to in Rule 6 on the question whether extra ayacut has been benefited and whether recovery is permissible.

9. Under new works, the Collector of North Arcot has raised the peculiar instances where the ryots under the source are unwilling to include their lands in the ayacut of the source or fail to reclaim their lands and bring them under wet cultivation. Though the Act is not applicable to new-works, in cases where additional extents are proposed to be brought under wet cultivation as a result of repairs or improvements carried out under the Act, similar instances may arise when recovery under the rules will be difficult. Though it is unlikely that owners of dry land will fail to take the opportunity of converting their lands to wet lands when water is made available to them by the Government, yet if instances of the kind referred to by the Collector are to arise, it seems there is no provision under law to compel them to take water and convert their lands into wet or levy a wet

P.T.O.

or levy a wet assessment irrespective of whether water is taken or not except under the Malabar Irrigation Act, which applies to the West Coast Districts only. Even under the Malabar Irrigation Act, there is provision for appeal and exemption from the inclusion of a land from the ayacut of a particular source, if the owner for particular reason feels it disadvantageous to have his land irrigated from the source. In such circumstances, it does not appear desirable to compel the ryots owning dry lands under a tank capable of converting them to wet to take water and pay wet assessment to facilitate recovery of the proportionate cost under the Tank Improvement Rules unless there is a legislation to permit such compulsion. It is not known whether the Comprehensive Irrigation Bill includes in it any provision authorising such compulsion. Revenue may see for remarks.

10. Revenue, Public Works and Finance Depts. see for remarks.

The terms of the Government reference are (1) whether any difficulty has been experienced in the implementation of the provisions of the Tank Improvement Act and (2) what measures have been taken to overcome the difficulties, if any. For the successful implementation of the said Act, a correct and realistic understanding of Sections 3(1) and 3(2) of the Act read with rule 6 of the rules thereunder, is essential; for by the former, the Government intend conferring on the ayacutdars something which they do not at present have and by the latter, they desire to get something in return from them either voluntarily or by coersion.

This requires a study of the Irrigation system by tanks and the efforts taken by the previous administration to maintain the standard of efficiency. In this

P.T.O.

State, irrigation tanks lie scattered in all parts of almost all districts. The previous Administration, like the present, realised that their proper repairs and maintenance are of supremank importance to the welfare of the people and made several endeavours to improve the tanks. One such scheme was the scheme known as the Tank Restoration Scheme. This was pushed through by fits and starts. It dragged on for nearly half a century and finally closed in about 1941-43. This was followed by the circle system. During investigation in implementing the above two systems, wide gaps were noticed in almost all tanks between the registered ayacut and the extent under actual wet cultivation. The same phenomenon is present in the case of all the tanks taken up for investigation and improvement under the Grow More Food scheme, and Tank Improvement Schemes now under operation. This shows that the factors that existed in 1878-80 continue to remain, to bring about the gradual deterioration of the condition and efficiency of the tanks, notwithstanding the improvements effected under the two schemes tried by the previous Administration.

Under the present schemes nothing beyond the time-honoured method of improvement in strengthening and extending the bunds with the earth removed from the tank beds and construction of surplus weir etc., is going to be done. The efficiency of the execution of these improvement works cannot also be superior in view of the improvements carried on, on a mass scale. 90 per cent of the tanks taken for improvement and repairs are not going to have pucca bunds with concrete or stone revetment all round. Nor are their beds going to be deepened by the use of earth moving machines. No arrangement will be made (as it is impossible) to prevent the gradual sitting up of the tanks by the inflow of surface drainage water during rainy seasons. Most of

the tanks are small with an ayacut of less than 100 acres. They depend entirely on monsoon rains. In the circumstances, they go down to the prior level of efficiency within 5 or 6 y ars even after effecting improvements to them.

These tanks will not definitely come under the scope of Section 3(1) of the Act read with Rule 6 of the rules framed thereunder. Under Section 3(1) of the Act, the Government should raise the F.T.L. of the tanks or take any measure for increasing their capacity or efficiency as a result of which, the capacity of the tanks should demonstrably increase beyond the extent necessary to meet the requirements of the existing registered ayacut so as to make it possible to supply water for a second crop or single crop wet lands or for the irrigation of lands now classified as dry or garden. The above provisions throw on the Government two items of responsibility:- (1) to increase the capacity or efficiency of the tanks to hold more water to the tanks by providing supply channels connected with some river, or some jungle stream or natural springs by constructing anicuts across them. Thus the tanks improved under Section 3(1) of the Act read with Rule 6 will only mean tanks with adequate capacity with full water and not empty tanks which depend solely on the vicissitudes of the season. However much such tanks are improved both in capacity and efficiency, they, if they are empty, cannot discharge the obligation imposed on the Government by Section 3(1) of the Act. Inferentially all tanks improved without to demand their return, from the ryots under Section 3(2) of the Act an assured adequate supply of water every year in the manner referred to above will not come under the scope of the Act. Tanks which really come under the Act will be very few and far between in a district.

Then passing on to the question of the recovering of cost of the improvement works, the decision

P.T.O.

regarding (1) whether the capacity or the efficiency of the tanks has demonstrably increased and (2) in what proportion the cost of improvement should be recovered has been left to the discretion of the District Collector. To ensure uniformity and fairplay, a clear cut formula should be prescribed by the Board of Revenue or the Government.

Firstly tanks which really come under the scope of the provisions of Section 3(1) read with Rule 6 should have an ayacut of not less than 50 acres.

Secondly the increase in the irrigable extent of the tanks should be not less than 25 per cent or 33-1/3 percent of the existing registered ayacut both in the case of conversion of dry into wet and in the case of single crop into double crop wet lands.

Thirdly the entire cost of improvements should be apportioned as follows:-- Extent of registered ayacut + extent of dry lands to be irrigated under the tank + extent of single crop lands to be cultivated with double crop = total extent. Total cost of improvement divided by the total number of acres will give the proportionate cost per acre. The owners of the registered ayacut will be exempt from payment of this proportionate cost provided they do not cultivate their single crop wet lands with double crop. Under sub-paragraph 2 of sub-rule (~~iii~~) of Rule 6, the proportionate cost should not exceed 50 per cent of the estimated increase in the value of lands benefitted. The lands benefitted should be valued on a par with the existing wet lands in the ayacut ordinarily cultivated year after year, deducting the amount spent, if any, by the owner by way of reclamation plus the value of the lands as dry. 50 per cent of this value or the proportionate cost arrived at whichever is less should be the amount

P.T.O.

the amount to be recurred from the owners of dry lands benefitted by the improvement. As regards the owners of single crop wet lands benefitted, the Government should be satisfied with the Collection of special water-rule at Rs.5/- or Rs.7-8-0/- per acre. This is suggested in view of the provisions of the Cultivating Tenants Protection Act and the Fair Rent Bill by which the land owners consider, that they have been reduced in status below that of the tenants. The amount so apportioned may be collectored from the year of the completion of the Improvement Work in five annual instalments in accordance with Rule 6(iii).

Revenue, Public Works and Finance Departments may see.

Id.
K.V.K.
A.S.2.
14.2.56.

Is it not necessary to see the remarks of the Board, in an important Draft, like this?

Id.
P.S.
D.S(E.O)
15.2.56.

A.S.

Submitted.

2. It seems necessary to call for the remarks ~~for the~~ of the Board of Revenue. Draft now submitted below is for approval.

Id.
K.V.K.
A.S.2.
16.2.56.

(Issued as Memo.1014/56-1 F.P.II B dated 16.2.56.)
Do -- /56-2 F.P.II B dated 16.3.56.
From the Board of Rev. Ref.No.H-1106/56-1 d/ 31.3.56.
Issued as Memo.1014/56-3 F.P.II B dated 10.4.56.

P.T.O.

From the Bd. of Rev. B.P.Mis.496 dated 16.4.56.
Do -- L.Dis.H2349/56 dated 18.4.56.

A.S.

With reference to the Government Memo. at p. 3cf., please see the remarks of the Board at pp. 11-13 c.f. While inviting the attention of the Government to the provisions of rule 6 of the Madras Tank Improvement Rules, 1950 regarding the recovery of cost of Tank Improvement Works, the Board has stated that the Collector or R.D.O. may proceed to recover the cost of repairs and improvements, if the provisions under the said rule are satisfied and that the R.D.O's have already been authorised to decide the principles on which the amount should be apportioned among the owners benefited by the work. The Board has pointed out that according to rule 6, recovery can be made when the increased capacity of the tank makes it possible to raise wet crops in dry lands or second crop in single crop wet lands and that if the authority is satisfied about the possibility of a certain land being benefited, the recovery can be made. It has further pointed out that the word "lands benefited by the works" occuring in rule 6(1) should be taken as indicating only the lands that will receive supply of water newly as a result of the improvements as different from the existing ayacut and that it should not be interpreted as a new proposition that recovery should be made only on lands after they are actually benefited by raising wet crops in dry lands or second crop on second crop wet lands as suggested by the Collectors. The Board has however, pointed out such a job will not be workable also. In some cases out of the entire area to be benefited, only a small portion of it may be brought under irrigation and the remaining extent may not come under irrigation. In such cases, the Board considers that the quantum

P.T.O.

or the proportion in which the cost of the work to be recovered cannot be decided until all the lands are actually brought under irrigation. The Board therefore, considers that once the capacity of the tank has demonstrably increased, the Collector or the R.D.O. can fix the additional ayacut that will be benefited or the area where second crop can be raised on the existing ayacut with reference to levels and situation etc., and proceed to recover the cost from the lands so determined. The Board has pointed out that only in this view, the instructions in Government Memorandum No.37430/52-4 F.P.IIB dated 15.5.53 were issued to the effect that the cost of works in permissible cases has to be recovered by the Collectors as soon as the works were brought to beneficial use.

2. As regards the question of transferring the lands from dry to wet raised by the Collectors, the Board considers that it may be done in due course, as and when the owners express their willingness for such a transfer and that water rate may be levied at a standard rate or any higher rate to be fixed with the approval of the Government or F.J may be continued to be levied for the present on any land (dry or wet) that now uses water for irrigation.

3. As for the recovery of the entire cost of work from the ayacutdars of the gap area, the Board is of the view that the Collector and the R.D.O. have full discretion under the rules to recover the cost in full or only a portion or waive the recovery.

4. It will be seen from the Board's remarks pp. 11-13 c.f. as noted above, on the points raised by the Collectors of N.Arcot and S.Kanara Dts. are more or less the same as expressed by this Deptt. noted on pp.6-9 ante. In the circumstances, the Government may agree with the

P.T.O.

views of the Board and inform the Collectors of North Arcot and South Kanara accordingly with reference to the letters extracted, at pp.1-2 c.f.

5. Rev. P.W. and Finance may see for remarks.

Id.
K.V.K.
A.S.2.
18.5.56.

Ed.
P.S.
D.S.(R.O.)
18.5.

Rev. Dept.

To U.S.

Please see the notes of the Agri.(F.P.)dept. from p.3 ante. This dept.may generally agree with the views of the Agri.(F.P.) dept. After orders are passed the file may be passed on to P.W.

Id.
xx
31.5.56.

Id.
xx
31.5.56.

P.W.D. (N2)

The notes of Agri.(F.P.) from p.3 ante may be perused. No. special remarks seem called for ~~xxxx~~ in this Dept. The file may be passed on to Finance.

Id.
xx
11.6.56.

Finance (Acct.)

The file deals with the difficulties pointed out by the Collectors of South Kanara and North Arcot in enforcing the Madras Irrigation Tanks (Improvement) Rules 1950. The notes from page 15 above & the Board's reference on p.11-13 c.f. may be perused. Agri.(F.P.) agree with the views of the Board on pp.11-13 c.f. Finance also may agree.

Agri.(F.P.)Dept.

A.S.

The notes of Revenue, Public Works and Finance at p.20 ante may be perused agreeing to the views of this Department noted at pp.1-9 and 15-19 ante. The question regarding recovery under the T.I. Act and its apportionment has, no doubt, been settled. But as regards levy of water rate and the point raised by the Collector of North Arcot, a perusal is solicited of para 9 at pp.8-9 ante, on which Revenue Department may be asked to see the case again and offer ~~and offer~~ their remarks.

Id.
K.V.K.
A.S,2.
6.7.56.

Revenue Dept.

To A.S.

Please see the notes of Agri (F.P.) above.

2. With reference to M on page 9 ante, the attention of the Agri.(F.P) may be invited to the provision made in clause 43(2) of chapter V of the comprehension Irrigation Bill, an extract of which is put up at T.

3. The file may be returned to Agri.(F.P.)

Id.
xx
26.7.56.

Agri.F.P. Dept.

A.S.

Please see the notes from p.15 ante. A draft order is submitted below for approval.

Id.
K.V.K.
A.S.2.
7.8.56

Id.
P.S.
D.S.(E.O.)

Id.
M.V.
S.E.O.

c.-R/C 1.9.56

/ True Copy /